UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,109	12/31/2003	Stephen R. Lawrence	24207-10090	9609

62296 7590 01/04/2007		EXAMINER
GOOGLE / FENWICK SILICON VALLEY CENTER 801 CALIFORNIA ST. MOUNTAIN VIEW, CA 94041		RAYYAN, SUSAN F

ART UNIT	PAPER NUMBER
2167	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

Office Action Summary	Application No.	Applicant(s)
	10/750,109	LAWRENCE ET AL.
	Examiner	Art Unit
	Susan F. Rayyan	2167

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 September 2006*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,7-10,13-22,26-30,33 and 34* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,7-10,13-22,26-30,33-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some *　c)☐ None of:

　　　　1.☐ Certified copies of the priority documents have been received.

　　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Response to Arguments

1.   Applicant's arguments, see response, filed September 25, 2006, with respect to the rejection(s) of claim(s) under 35 U.S.C. 102(B) as being anticipated by US Patent Publication Number 2004/010387 issued to Rajat Mukherjee et al ("Mukherjee"), claims rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication Number 2004/010387 issued to Rajat Mukherjee et al ("Mukherjee") in view of US Patent Application Publication Number 2005/0033803 issued to Taylor N. Van Vleet et al ("Vleet"), claims rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication Number 2004/010387 issued to Rajat Mukherjee et al ("Mukherjee") in view of US Patent Application Publication Number 2005/0033803 issued to Taylor N. Van Vleet et al ("Vleet") an further in view of US Patent Number 6,078,916 issue to Gary Culliss ("Culliss") and claim rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication Number 2004/010387 issued to Rajat Mukherjee et al ("Mukherjee") and US Patent Number 6,078,916 issue to Gary Culliss ("Culliss") have been fully considered and are persuasive.   Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of US Patent Publication Number 2004/010387 issued to Rajat Mukherjee et al ("Mukherjee") and US 2002/0143757 issued to Allan Kai-Lang Yu.

See rejection below.

2.   In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., when applied to a display with a refreshing content window, page 10-11of

Response) are not recited in the rejected claim(s). Although the claims are interpreted

in light of the specification, limitations from the specification are not read into the claims.

See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

· DETAILED ACTION

3.   Claims 4-6, 11-12, 23-25,31-32 have been canceled.

4.   Claims 1-3,7-10,13-22,26-30,33-34 are pending.

Claim Rejections - 35 USC § 101

5.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-3,7-10,13-22,26-30,33-34 are rejected under 35 U.S.C. 101 because

the claimed invention is directed to non-statutory subject matter.

To be statutory, a claimed computer-related process must either: (A) result in a

physical transformation outside the computer for which a practical application is either

disclosed in the specification or would have been known to a skilled artisan, or (B) be

limited to a practical application with useful, concrete and tangible result.

A practical application can be either physical transformation or a useful, concrete

and **tangible** result.

Claims 1, 21,22 recite creating a third result set and claim 20 recites creating a

second result set The claims do not provide a tangible result such as displaying the

result set to the user.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

7.   Claims 1-3,7-10,13-22,26-30,33-34 are rejected under 35 U.S.C. 103(a) as

being unpatentable over US Patent Publication Number 2004/010387 issued to Rajat

Mukherjee et al ("Mukherjee")and US 2002/0143757 issued to Allan Kai-Lang Yu.

As per claim 1, Mukherjee teaches:

receiving a first result set, the first result set comprising a first plurality of article

identifiers arranged in a first sort order (paragraph 28, lines 6-9 and page 7:claim 1 and

paragraph 58, lines 3-7, search results ordered alphabetically by author equates to the

first sort order);

receiving a second result set, the second result set comprising a second plurality of

article identifiers(paragraph 28, lines 6-9 and page 7:claim 1 and paragraph 58, lines 3-

7, search being returned by the search worker and ordered such as alphabetically by

author, one skilled in the art would understand that the search result could be ordered

alphabetically by title or a number of other methods).

Mukherjee does not explicitly teach sorting the second plurality of article identifiers

in the second search order into a third sort order based at least in part on the first sort

order and creating a third result set based at least in part on the first and second

plurality of identifiers and the third sort order. Yu does teach limitations (paragraphs 35-

36 and paragraph 41, interest indications of the present search are available for

prioritizing search items in the future and record a search history for future prioritizing.

Yu teaches a present search result (a second plurality of article identifies) using the

search history of a previous search (first sort order) to order the search results (third

result set) to offer a more flexible mechanism for defining relevancy . It would have

been obvious to one of ordinary skill in the art at the time of the invention to modify

Mukherjee with sorting the second plurality of article identifiers in the second search

order into a third sort order based at least in part on the first sort order and creating a

third result set based at least in part on the first and second plurality of identifiers and

the third sort order to offer a more flexible mechanism for defining relevancy at

paragraph 15, lines 8-9.

As per claim 2, same as claim arguments above and Mukherjee teaches:

further comprising creating the first result set(page 7: claim1, lines 1-5).

As per claim 3, same as claim arguments above and Mukherjee teaches:

creating the second result set (page 7: claim1, lines 6-9).

As per claim 7, same as claim arguments above and Yu teaches:

identifying a first article identifier in a first position in the first result set, identifying a

second position the second result set and identifying the first article and placing the first

article identifier in the first position in the third result set (paragraphs 32, collected items

are assigned an item identifier (article identifier9 and paragraph 36, lines 1-2, 11-15

,search results (article identifiers) are prioritized based on prior hit counts for the article

identifiers).

As per claim 8, same as claim arguments above and Yu teaches:

wherein creating the third result set comprises deleting at least one of the second

plurality of article identifiers from the second result set (paragraph 39-40, search

histories are aged resulting in article identifiers being excluded).

As per claim 9, same as claim arguments above and Yu teaches:

wherein deleting at least one of the second plurality of article identifiers comprises

excluding at least one of the second plurality of article identifiers based at last in part on

an event associated with the article identifier in the first result set (paragraph 39-40).

As per claim 10, same as claim arguments above and Yu teaches where in the at least

one of the second plurality of article identifiers comprises an article identifier in the first

plurality of article identifiers for which a lack of interest has been indicated (paragraph

39-40, search histories are aged resulting in article identifiers being excluded).

As per claim 13, same as claim arguments above and Yu teaches:

further comprising comparing the first result set to the second result set (paragraph 36,

lines 11-14, as interest indications based on the first result set are compared to the

second result set).

As per claim 14, same as claim arguments above and Yu teaches:

further comprising causing the display of the third result set in place of the first result set

(paragraph 34, display items of the search results).

As per claim 15, same as claim arguments above and Yu teaches:

wherein the third result set comprises at least a predetermined percentage of the first

plurality of article identifiers (paragraph 39-40).

As per claim 16, same as claim arguments above and Yu teaches:

receiving a length of display time for an article identifier in the first plurality of article

identifiers (paragraph 39-40, time factor).

As per claim 17, same as claim arguments above and Yu teaches:

Including the article identifier in the third result set if the length of display time is less

than a minimum display time (paragraph 39-40, time factor in the aging process).

As per claim 18, same as claim arguments above and Yu teaches:

wherein creating the third result set comprises creating the third result set based at least

in part on a user activity (paragraph 35, user selection are tracked a search histories).

As per claim 19, same as claim arguments above and Yu teaches:

where in the third result set comprises no more than a predetermined quantity of article

identifiers not contained in the first plurality of article identifiers (paragraph 35, search

histories are tracked and an aging process is used to determine the third result set).

As per claim 20 Mukherjee teaches receiving a first result set, the first result set

comprising a first plurality of article identifiers (paragraph 28, lines 6-9 and page 7,

claim1) and creating a second result set (page 7, claim1, lines 6-9). Mukherjee does not

explicitly teach each of said first plurality of articles identifiers comprising a length of

display time measure indicating a length of time that the article identifiers has been

displayed on the display and article identifiers comprising a length of display time less

than a predetermined minimum display time. Yu does teach this limitation at (paragraph

39-40, time factor in the aging process) to offer a more flexible mechanism for defining

relevancy . It would have been obvious to one of ordinary skill in the art at the time of

the invention to modify Mukherjee with each of said first plurality of articles identifiers

comprising a length of display time measure indicating a length of time that the article

identifiers has been displayed on the display and article identifiers comprising a length

of display time less than a predetermined minimum display time to offer a more flexible

mechanism for defining relevancy at paragraph 15, lines 8-9.

As per claim 21 Mukherjee teaches:

obtaining a first result set, the first result set comprising a first plurality of article

identifiers arrange in a first sort order (paragraph 28, lines 6-9 and page 7:claim 1 and

paragraph 58, lines 3-7, search results ordered alphabetically by author equates to the

first sort order);

obtaining a second result set, the second result set comprising a second plurality

of article identifiers arranged in a second sort order (paragraph 28, lines 6-9 and page

7:claim 1 and paragraph 58, lines 3-7, search being returned by the search worker and

ordered such as alphabetically by author, one skilled in the art would understand that

the search result could be ordered alphabetically by title or a number of other methods).

   Mukherjee does not explicitly teach sorting the second plurality of article identifiers in

the second search order set into a third sort order based at least in part on the first sort

order and creating a third result set based at least in part on the first and second

plurality of identifiers and the third sort order. Yu does teach limitations (paragraphs 35-

36 and paragraph 41, interest indications of the present search are available for

prioritizing search items in the future and record a search history for future prioritizing.

Yu teaches a present search result (a second plurality of article identifies) using the

search history of a previous search (first sort order) to order the search results (third

result set) to offer a more flexible mechanism for defining relevancy . It would have

been obvious to one of ordinary skill in the art at the time of the invention to modify

Mukherjee with sorting the second plurality of article identifiers in the second search

order into a third sort order based at least in part on the first sort order and creating a

third result set based at least in part on the first and second plurality of identifiers and

the third sort order to offer a more flexible mechanism for defining relevancy at

paragraph 15, lines 8-9.

As per claim 22 Mukherjee teaches:

A computer-readable medium on which is encoded program code, the program

code comprising:

program code for receiving a first result set, the first result set comprising a first

plurality of article identifiers arranged in a first sort order (paragraph 28, lines 6-9 and

page 7:claim 1 and paragraph 58, lines 3-7, search results ordered alphabetically by

author equates to the first sort order);

receiving a second result set, the second result set comprising a second plurality

of article identifiers arranged in a second sort order (paragraph 28, lines 6-9 and page

7:claim 1) and paragraph 58, lines 3-7, search being returned by the search worker and

ordered such as alphabetically by author, one skilled in the art would understand that

the search result could be ordered alphabetically by title or a number of other methods).

Mukherjee does not explicitly teach sorting the second plurality of article identifiers in

the second search order set into a third sort order based at least in part on the first sort

order and creating a third result set based at least in part on the first and second

plurality of identifiers and the third sort order. Yu does teach limitations (paragraphs 35-

36 and paragraph 41, interest indications of the present search are available for

prioritizing search items in the future and record a search history for future prioritizing.

Yu teaches a present search result (a second plurality of article identifies) using the

search history of a previous search (first sort order) to order the search results (third

result set) to offer a more flexible mechanism for defining relevancy . It would have

been obvious to one of ordinary skill in the art at the time of the invention to modify

Mukherjee with sorting the second plurality of article identifiers in the second search

order into a third sort order based at least in part on the first sort order and creating a

third result set based at least in part on the first and second plurality of identifiers and

the third sort order to offer a more flexible mechanism for defining relevancy at

paragraph 15, lines 8-9.

As per claim 26, same as claim arguments above and Mukherjee teaches::

program code for identifying a first article identifier in a first position in the first result set,

program code for identifying :he first article identifier in a second position in the second

result set and program code for relocating fie first article identifier to the first position in

the second result set(paragraphs 57,62).

As per claim 27, same as claim arguments above and Mukherjee teaches:

further comprising program code for creating the first result set(page 7: claim1, lines 1-

5).

As per claim 28, same as claim arguments above and Mukherjee teaches:

further comprising program code for creating the second result set(page 7: claim1, lines

6-9).

As per claim 29, same as claim arguments above and Yu teaches:

wherein the program code for creating the second result set comprises program code

for excluding at least one of the second plurality of article identifiers from the second

result set (paragraph 39, aging the hit counts to properly retire outdated items would

exclude certain second identifiers from inclusion in the second result set).

As per claim 30, same as claim arguments above and Yu teaches:

wherein program code for excluding at least one of the second plurality comprises

program code for excluding at least one of the second plurality based at least in part on

an event associated with the article identifier in the first result set (paragraph 39, aging

the hit counts to properly retire outdated items would exclude certain second identifiers

from inclusion in the second result set).

As per claim 33, same as claim arguments above and Mukherjee teaches:

 further comprising program code for comparing the first result set to the second result

set (paragraph 57, lines 5-7).

As per claim 34, same as claim arguments above and Yu teaches:

 further comprising program code for causing the display of the third result set in place,

of the first result set (paragraph 34, display items of the search results).

Contact Information

1.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Susan Rayyan whose telephone number is (571) 272-

1675. The examiner can normally be reached M-F: 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Cottingham can be reached on (571) 272-7079. The fax phone

number for the organization where this application or proceeding is assigned is

703-872-9306.

Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR

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direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan Rayyan

December 26, 2006

JOHN COTTINGHAM
SUPERVISORY PATENT EXAMINER
CENTER 2100